

AMENDED IN SENATE AUGUST 21, 2002

AMENDED IN ASSEMBLY APRIL 16, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 2567

**Introduced by Committee on Business and Professions (Correa
(Chair), Bogh, Cedillo, Chavez, Corbett, Kelley, Koretz,
Matthews, and Nation)**

February 21, 2002

An act to *amend Section 14838.5 of, to add Section 14838.7 to, and to repeal Section 14859 of, the Government Code, to amend ~~Section~~ Sections 2002 and 2807 of the Penal Code, and to amend Section 10332 of the Public Contract Code, relating to state agencies.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2567, as amended, Committee on Business and Professions. State Agencies: reports: public contracts: acquisitions of goods and services.

Existing law authorizes any state agency, that receives delegated authority from the Department of General Services to acquire, without prior approval, materials, supplies, and equipment, to make specified purchases, including acquisitions not exceeding \$15,000 from vendors not listed on price schedules in specified circumstances, and from vendors at a price lower than state warehouse prices.

Existing law also requires the Department of General Services, on July 1 of each year, to establish the minimum dollar level below which a state agency has the authority to acquire goods without prior approval

from the department. The current established minimum dollar level is set at \$25,000.

This bill would apply this annually established limit, in lieu of the current \$15,000 threshold, to acquisitions from vendors not listed on price schedules and from vendors at a price lower than state warehouse prices, made by any state agency that has been delegated authority to make specified purchases without prior approval from the Department of General Services.

Existing law requires the Department of General Services to make a written report to the Governor, embracing a record of the complete transaction of the Office of State Printing for the preceding fiscal year.

This bill would eliminate that reporting requirement.

Existing law requires various state agencies and officers to report to the Director of General Services and to the Chairperson of the Joint Legislative Budget Committee on their use of goods and services, as specified.

This bill would eliminate that reporting requirement.

Existing law authorizes a local agency to provide for a small business preference in construction, the procurement of goods, or the delivery of services, and to establish a subcontracting participation goal for small businesses on contracts with a preference for those bidders who meet the goal.

This bill would, for purposes of this authority, require the term “small business” to be defined by each local agency, and would also reduce, as specified, maximum contract value limits with respect to the awarding of state contracts, under certain authority, to small businesses, microbusinesses, or disabled veteran businesses.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. *Section 14838.5 of the Government Code is*
- 2 *amended to read:*
- 3 14838.5. (a) Notwithstanding the advertising, bidding, and
- 4 protest provisions of Chapter 6 (commencing with Section 14825)
- 5 of this code and Chapter 2 (commencing with Section 10290) and
- 6 Chapter 3 (commencing with Section 12100) of Part 2 of Division
- 7 2 of the Public Contract Code, a state agency may award a contract
- 8 for the acquisition of goods, services, or information technology



1 that has an estimated value of greater than five thousand dollars
2 (\$5,000), but less than ~~two hundred thousand dollars (\$200,000)~~
3 ~~for construction contracts and less than~~ one hundred thousand
4 dollars (\$100,000) ~~for all other contracts~~, to a certified small
5 business, including a microbusiness, or to a disabled veteran
6 business enterprise, as long as the agency obtains price quotations
7 from two or more certified small businesses, including
8 microbusinesses, or from disabled veterans business enterprises.

9 (b) In carrying out subdivision (a), state agencies shall consider
10 a responsive offer timely received from a responsible certified
11 small business, including a microbusiness, or from a disabled
12 veteran business enterprise.

13 (c) If the estimated cost to the state is less than five thousand
14 dollars (\$5,000) for the acquisition of goods, services, or
15 information technology, or a greater amount as administratively
16 established by the director, a state agency shall obtain at least two
17 price quotations from responsible suppliers whenever there is
18 reason to believe a response from a single source is not a fair and
19 reasonable price.

20 SEC. 2. *Section 14838.7 is added to the Government Code, to*
21 *read:*

22 *14838.7. (a) Notwithstanding the advertising and bidding*
23 *provisions of Chapter 6 (commencing with Section 14825) of this*
24 *code and Chapter 1 (commencing with Section 10100) of Part 2*
25 *of Division 2 of the Public Contract Code, a state agency may*
26 *award a contract for construction, including the erection,*
27 *construction, alteration, repair, or improvement of any state*
28 *structure, building, road, or other state improvement of any kind*
29 *that has an estimated value of greater than five thousand dollars*
30 *(\$5,000) but less than the cost limit for State Contract Act projects,*
31 *as specified in subdivision (b) of Section 10105 of the Public*
32 *Contract Code, to a certified small business, including a*
33 *microbusiness, or to a disabled veteran business enterprise, as*
34 *long as the agency obtains written bid submittals from two or more*
35 *certified small businesses, including microbusinesses, or from*
36 *disabled veteran business enterprises.*

37 *(b) In implementing subdivision (a), state agencies shall*
38 *consider a responsive offer timely received from a responsible*
39 *certified small business, including a microbusiness, or from a*
40 *disabled veteran business enterprise.*

1 (c) *If the estimated cost to the state is less than five thousand*
2 *dollars (\$5,000) for the public work construction project, a state*
3 *agency shall obtain at least two written bid submittals from*
4 *responsible contractors whenever there is reason to believe a*
5 *response from a single source is not a fair and reasonable price.*

6 SEC. 3. Section 14859 of the Government Code is repealed.

7 ~~SEC. 2.—~~

8 SEC. 4. Section 2807 of the Penal Code is amended to read:

9 2807. (a) The authority is hereby authorized and empowered
10 to operate industrial, agricultural, and service enterprises which
11 will provide products and services needed by the state, or any
12 political subdivision thereof, or by the federal government, or any
13 department, agency, or corporation thereof, or for any other public
14 use. Products may be purchased by state agencies to be offered for
15 sale to inmates of the department and to any other person under the
16 care of the state who resides in state-operated institutional
17 facilities. Fresh meat may be purchased by food service operations
18 in state-owned facilities and sold for onsite consumption.

19 (b) All things authorized to be produced under subdivision (a)
20 shall be purchased by the state, or any agency thereof, and may be
21 purchased by any county, city, district, or political subdivision, or
22 any agency thereof, or by any state agency to offer for sale to
23 persons residing in state-operated institutions, at the prices fixed
24 by the board. State agencies shall make maximum utilization of
25 these products, and shall consult with the staff of the authority to
26 develop new products and adapt existing products to meet their
27 needs.

28 ~~SEC. 3.—~~

29 SEC. 5. *Section 2002 of the Public Contract Code is amended*
30 *to read:*

31 2002. (a) Notwithstanding any other provision of law
32 requiring a local agency to award contracts to the lowest
33 responsible bidder, any local agency may do any of the following
34 in facilitating contract awards to small businesses:

35 ~~(a)—~~

36 (1) Provide for a small business preference in construction, the
37 procurement of goods, or the delivery of services where
38 responsibility and quality are equal. The preference to a small
39 business shall be up to 5 percent of the lowest responsible bidder
40 meeting specifications.

~~(b)~~

(2) Establish a subcontracting participation goal for small businesses on contracts and grant a preference, up to a maximum of 5 percent, to those bidders who meet the goal.

~~(e)~~

(3) Require bidders to make good faith efforts to meet a subcontracting participation goal for small business contracts. Bidders that fail to meet the goal shall demonstrate that they made good faith efforts to utilize small business contractors.

(b) The term "small business," as used in this section, shall be defined by each local agency.

SEC. 6. Section 10332 of the Public Contract Code is amended to read:

10332. Any state agency that receives delegated authority to acquire goods shall be authorized, at a minimum, to make the following types of acquisitions:

(a) Acquisitions not exceeding the dollar value established pursuant to Section 10330.

(b) Acquisitions in any amount of goods available under an unexpired statewide or regional contract. Acquisitions of goods for which a valid statewide or regional contract is in effect may not be made, without the approval of the office, from a supplier other than the supplier with whom the state has a valid contract.

(c) Acquisitions in any amount of goods that state agencies are required, by Section 2807 of the Penal Code, to acquire from the Prison Industry Authority.

(d) Acquisitions not exceeding the dollar amount, established pursuant to Section 10330, of goods designated in price schedules that the office has established with suppliers. Acquisitions not exceeding the dollar amount, established pursuant to Section 10330, of goods designated in price schedules may be made from a supplier other than the supplier specified on a price schedule if another supplier offers the same or equivalent goods at a price lower than the price established in the price schedule. The agency shall notify the office prior to making the acquisition. The acquisition may be made 48 hours after receipt of the notice by the office unless the office advises the agency that the goods to be acquired are not the same or equivalent to the goods specified on a price schedule.

1 (e) Acquisitions not exceeding the dollar value, established
2 pursuant to Section 10330, of goods that are available from the
3 state warehouses but which the state agency can acquire from
4 another supplier at a price lower than the price charged by the
5 department. The agency shall notify the office prior to making the
6 acquisition. The acquisition may be made 48 hours after receipt of
7 the notice by the office unless the office advises the agency that the
8 goods to be acquired are not the same or equivalent to the goods
9 available from the state warehouses.

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